

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

16-cr-262-3 (JGK)

MARCOS DELACRUZ,

MEMORANDUM OPINION AND
ORDER

Defendant.

JOHN G. KOELTL, District Judge:

By letter dated February 23, 2022, the defendant claims that his sentence should be deemed to have commenced on September 22, 2021, and that he therefore should be released from Bureau of Prison ("BOP") custody. The Government responded by letter dated March 11, 2022, explaining that the defendant first entered federal custody on October 25, 2021, and that the BOP has calculated the defendant's release date to be March 23, 2022.

"After a defendant is sentenced, it falls to [the] BOP, not the district judge, to determine when a sentence is deemed to 'commence.'" United States v. Pineyro, 112 F.3d 43, 45 (2d Cir. 1997) (citing 18 U.S.C. § 3585(a)). Any challenge to the computation of the defendant's sentence must be brought in a habeas petition pursuant to 28 U.S.C. § 2241 in a court in the district in which the defendant is incarcerated, after the defendant has exhausted all administrative remedies. See Chambers v. United States, 106 F.3d 472, 473 (2d Cir. 1997); Azor v. Griffin, No. 12-cv-5998, 2013 WL 3013880, at *9

(E.D.N.Y. June 18, 2013). It is unclear from the defendant's letter whether he has exhausted all available administrative remedies. In any event, because the defendant is incarcerated at the Metropolitan Detention Center, any petition under § 2241 must be filed in the United States District Court for the Eastern District of New York. Accordingly, the defendant's application is denied without prejudice.

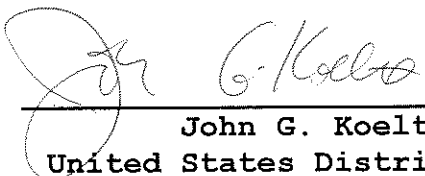
The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

The Clerk is directed to mail a copy of this Order to the defendant at the following address and to note service on the docket:

Marcos Delacruz #77604-054
Metropolitan Detention Center
P.O. Box 329002
Brooklyn, New York 11232

SO ORDERED.

Dated: New York, New York
March 15, 2022



John G. Koeltl
United States District Judge